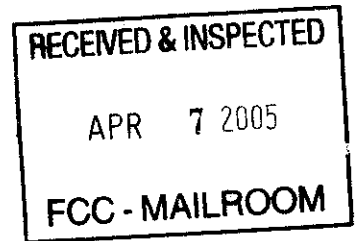


WC 05-174

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554



In re Petition of)
ALLBAND COMMUNICATIONS COOPERATIVE)
For Waiver of Sections 69.2(hh) and 69.601)
of the Commission's Rules to Allow New)
Local Exchange Carrier to Participate in)
National Exchange Carrier Association)
Tariffs and Pools)

DOCKET FILE COPY ORIGINAL

TO: Chief, Wireline Competition Bureau

PETITION FOR WAIVER OF
SECTIONS 69.2 AND 69.601 OF THE COMMISSION'S RULES

Allband Communications Cooperative ("Allband") hereby petitions for waiver of Sections 69.2(hh) and 69.601 of the Commission's Rules so that it can become a member of the National Exchange Carrier Association ("NECA") and participate in NECA tariffs and pools.

Allband is a non-profit cooperative incorporated in the State of Michigan. Allband was granted a permanent license to provide basic local exchange service in the proposed Robbs Creek exchange by the Michigan Public Service Commission (MPSC) on December 2, 2004. The Robbs Creek exchange covers approximately 177.4 square miles and includes portions of Alcona, Alpena, Montmorency and Oscoda counties that are presently unserved by any local exchange carrier. The nearest town is Hillman, Michigan, which is northwest of the most northerly portion of Allband's service area. Allband is preparing to begin construction during the summer of 2005.

Because Allband came into existence after the enactment of the Telecommunications Act of 1996 and because it will serve previously unserved areas,

Allband does not meet the definition of “incumbent local exchange carrier (“ILEC”)” in Section 251(h)(1) of the Communications Act of 1934, as amended. As a result, Allband does not qualify without the requested waiver to be a “telephone company” or “local exchange carrier” under Section 69.2(hh) of the Commission’s Rules, or to become a member of NECA and participate in NECA tariffs and pools under Sections 69.601(a) and 69.601(b) of the Rules.

Section 251(h)(2)(A) of the Act permits the Commission to treat local exchange carriers as ILECs if they occupy a position in the market for telephone exchange service within an area that is comparable to the position occupied by an ILEC. Here, Allband will occupy a position in the previously unserved Robbs Creek Exchange market that is equivalent to the position occupied by ILECs. Therefore, the requested waiver should be granted so that Allband can become a member of NECA and participate in NECA pools and tariffs.

Background of Allband

Allband is a non-profit corporation organized on a membership basis that was formed under the laws of the State of Michigan on November 5, 2003. Allband is a non-profit cooperative. Its mailing address is PO Box 246, Hillman, Michigan 49746.

Allband has only one exchange, Robbs Creek. It is located in the Northeast portion of the lower peninsula of Michigan¹. Alpena, located along the Lake Huron coast of Michigan, is the nearest “large” town and is approximately 35 miles directly east and a little north of the most northern portion of the Robbs Creek exchange. The Robbs Creek

¹ A map of the Allband service territory and its location in the state of Michigan can be found at Allband’s website: www.allband.org.

exchange encompasses about 177.4 square miles, and is expected to serve approximately 300 access lines within the first two years after it commences operations. There are no recognized towns/communities within the Robbs Creek exchange.

On August 31, 2004, in Case Number U-14200, the MPSC granted Allband a temporary license to “provide basic local exchange service in the proposed new exchange service territory”. On December 2, 2004 in Case Number U-14200, the MPSC granted Allband a permanent license to “provide basic local exchange service in the proposed Robbs Creek Exchange”. The permanent license superseded the temporary license. The MPSC order granting the permanent license is attached.

Allband presently expects to commence service in the summer of 2005. The area does not presently have any local exchange service, and it is Allband’s information and belief that it has never had any local exchange service. The Robbs Creek exchange is completely surrounded by six (6) exchanges belonging to Verizon/GTE. Since Allband’s certificated service territory is currently an unserved area it has never been included in the local exchange service territory or study area of Verizon.

The Requested Waiver Should Be Grant

In Wilderness Valley Telephone Company, Inc., 13 FCC Rcd 6573 (March 31, 1998), the Bureau granted waivers of Sections 69.2(hh) and 69.601 to permit a small new local exchange carrier serving a previously unserved area to become a member of NECA and participate in NECA tariffs and pools. The Bureau noted that when the Commission revised Section 69.2 to require that telephone companies be ILECs to participate in NECA tariffs and pools, the Commission did not specifically provide for companies that

do not meet the statutory definition of “incumbent local exchange carrier,” that come into existence after the enactment of the 1996 Act, and that serve previously unserved areas. It therefore waived the LEC requirement of Part 69 for Wilderness Valley Telephone Company (a small new LEC serving approximately 40 subscribers in a previously unserved area), so that it could become a member of NECA and participate in NECA tariffs and pools.

The Bureau’s Wilderness Valley order was supported by Section 251(h)(2)(A) of the Act, which permits the Commission to provide for the treatment of a local exchange carrier as an “incumbent local exchange carrier” if such carrier occupies a position in the market for telephone exchange service within an area that is comparable to the position occupied by an ILEC.

In the present case, Allband will occupy a position in the market for telephone exchange service within its proposed Robbs Creek exchange that is equivalent to the position occupied by an ILEC. Allband will be the only local exchange carrier serving this previously unserved area. It has already been authorized and registered by the MPSC to serve the currently unserved proposed Robbs Creek exchange area. Allband has been required to provide service in these areas on the basis of tariffs. The only thing that is preventing Allband from becoming a full-fledged ILEC at the time it commences operations is the accident that it will commence service in the Robbs Creek exchange area after the February 8, 1996 enactment of the Telecommunications Act of 1996.

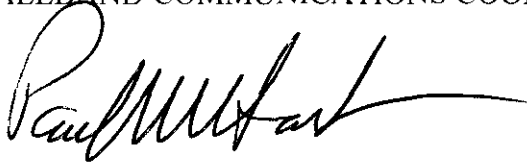
Allband is a small local exchange carrier that will operate in a manner equivalent to an ILEC in the presently unserved Robbs Creek exchange area. Allband’s anticipated 300 access line subscriber base is too small to support the substantial expense entailed in

the preparation, filing and maintenance of its own interstate access tariff. Likewise, Allband's small customer base will not generate significant economies of scale, and it will be unable to maintain stable access rates if certain critical expenses or demand factors fluctuate significantly. Therefore, Allband needs to participate in the NECA tariffs and pools in order to minimize its administrative expenses and maintain stable interstate access rates.

In light of the foregoing, the Bureau is requested to grant the specified waivers of Sections 69.2(hh) and 69.601 of the Commission's Rules so that Allband can become a member of NECA and participate in NECA tariffs and pools.

Respectfully submitted,

ALLBAND COMMUNICATIONS COOPERATIVE

A handwritten signature in black ink, appearing to read "Paul M. Hartman", with a long horizontal flourish extending to the right.

Paul M. Hartman
General Manager
Allband Communications Cooperative
PO Box 246
Hillman, Michigan 49746
Phone: (989) 255-1406
E-mail: paul.hartman@allband.org
Dated: April 1, 2005

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)	
ALLBAND COMMUNICATIONS COOPERATIVE)	
for a temporary and permanent license to provide)	
basic local exchange service in the proposed)	Case No. U-14200
Robbs Creek Exchange.)	
_____)	

At the December 2, 2004 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chair
Hon. Robert B. Nelson, Commissioner
Hon. Laura Chappelle, Commissioner

OPINION AND ORDER

On July 9, 2004, Allband Communications Cooperative (Allband) filed an application, pursuant to the Michigan Telecommunications Act (MTA), MCL 484.2101 et seq., for a license to provide basic local exchange service in the proposed Robbs Creek Exchange. On August 31, 2004, the Commission granted Allband a temporary license.

At a hearing on November 23, 2004, Allband presented the testimony and exhibits of John M. Reigle, its President. At the close of the hearing, the parties waived compliance with the provisions of Section 81 of the Michigan Administrative Procedures Act, MCL 24.281.

After a review of the application and testimony, the Commission finds that approval of the application is in the public interest. On numerous occasions, the Commission has found that competition can be advantageous to the citizens of this state. Approval of the request for a license

to provide basic local exchange service will expand the opportunities for competition.

Accordingly, the application should be approved. The grant of a license is conditioned on full compliance with the provisions of the MTA, as well as the anti-slamming procedures adopted in Case No. U-11900 and the number reclamation process adopted in Case No. U-12703. Failure to comply fully may result in revocation of the license or other penalties. Further, the grant of a license is conditioned upon the provision of service to customers within a reasonable time. Failure to do so may result in revocation of the license. Finally, the Commission notes that any numbers obtained by the applicant are a public resource and are not owned by the applicant. Consequently, if the applicant fails to provide service or goes out of business, any numbers assigned to it are subject to reclamation.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 et seq.
- b. Allband possesses sufficient technical, financial, and managerial resources and abilities to provide basic local exchange service to all residential and commercial customers within the geographic area of the license and intends to provide service within one year from the date of this order.
- c. Granting Allband a license to provide basic local exchange service in the requested area will not be contrary to the public interest.

THEREFORE, IT IS ORDERED that:

A. Allband Communications Cooperative is granted a license to provide basic local exchange service in the proposed Robbs Creek Exchange.

B. Allband Communications Cooperative shall provide basic local exchange service in accordance with the regulatory requirements specified in the Michigan Telecommunications Act, MCL 484.2101 et seq., including the number portability provisions of Section 358, the anti-slamming procedures adopted in Case No. U-11900, and the number reclamation process adopted in Case No. U-12703.

C. Before commencing basic local exchange service, Allband Communications Cooperative shall submit its tariff reflecting the services that it will offer and identifying the exchange in which it will offer service.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

(S E A L)

/s/ J. Peter Lark
Chair

By its action of December 2, 2004.

/s/ Robert B. Nelson
Commissioner

/s/ Mary Jo Kunkle
Its Executive Secretary

/s/ Laura Chappelle
Commissioner

THEREFORE, IT IS ORDERED that:

A. Allband Communications Cooperative is granted a license to provide basic local exchange service in the proposed Robbs Creek Exchange.

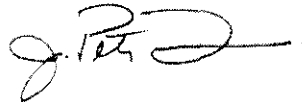
B. Allband Communications Cooperative shall provide basic local exchange service in accordance with the regulatory requirements specified in the Michigan Telecommunications Act, MCL 484.2101 et seq., including the number portability provisions of Section 358, the anti-slamming procedures adopted in Case No. U-11900, and the number reclamation process adopted in Case No. U-12703.

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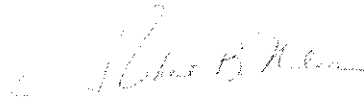
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MICHIGAN PUBLIC SERVICE COMMISSION

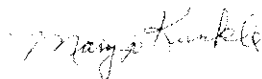


Chair

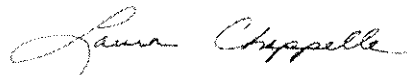


Commissioner

By its action of December 2, 2004.



Its Executive Secretary



Commissioner